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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,800	09/12/2003	Dan E. Williams	00-4707	9502

7590 02/09/2004  
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EXAMINER

ZERR, JOHN W

ART UNIT PAPER NUMBER

3644

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/662,800

Applicant(s)

WILLIAMS, DAN E.

Examiner

John W. Zerr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/12/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 3 is objected to because of the following informalities: Claim 3 is an exact copy of Claim 2. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Humm (USPT 1,127,250, cited by Applicant). Humm discloses a silencer that could be used as a paintball gun barrel with a compression chamber. The silencer comprises an inner tube (6) having a breech end, a barrel end, and a muzzle end disposed between the breech end and the barrel end such that the silencer has a first length extending from the breech end to the barrel end and a second length extending from the breech end to the muzzle end. The inner tube (6) comprises a plurality of apertures between the breech end and the muzzle end. An outer tube (15) has a breech end and a muzzle end. The outer tube (15) has a length measured from the breech end to the muzzle end. The outer tube (15) has a plurality of apertures located between the breech end and the muzzle end. The outer tube (15) has an inner surface and an outer surface. The inner surface of the outer tube (15) has a filter lining (14). The apertures on the inner tube (6) are dispersed as parallel helixes and extend from the breech end to the muzzle end of the inner tube (6). The filter (14) is comprised of woven fibrous layers and is therefore considered to be porous and

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spongy. The filter (14) extends from the breech end to the muzzle end of the outer tube (15).

The inner tube (6) has external threads located at the breech end. The outer tube (15) has internal threads located at the breech end. The threads of the outer tube (15) match the threads of the inner tube (6) so that the outer tube (15) is removably and rotatably attachable to the inner tube (6) (see Figures 1-3 and column 2 line 81-column 3 line 43).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Humm. Humm does not teach that the outer tube length is equal to the second length of the inner tube. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the outer tube with a length equal to the second length of the inner tube as defined above in the silencer of Humm, since it has been held that changes in relative dimensions without affect to the operation of the device involves only routine skill in the art. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bull (USPT 1,487,312) discloses a flash hider comprising inner and outer tube and a coil lining the outer tube to absorb heat. Engels (USPT 2,583,366) discloses a muffler with perforated cylinder containing inwardly and rearwardly inclined holes comprising a layer of

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metallic wool between an inner tube and outer tube. Hofstetter (USPT 1,939,700) discloses a muzzle attachment for guns comprising inner and outer tube and a coil lining the outer tube to absorb heat. Mathis (USPT 2,712,193) discloses a shotgun muzzle device comprising perforated inner and outer tubes. Perry (USPT 6,494,195) discloses a barrel assembly with removable barrel insert for pneumatic paintball gun. Rogers (USPT 5,355,765) discloses a high performance gun barrel comprising a compression chamber. Michel (FR 2677743) discloses a noise attenuator for a hunting or match-shooting rifle. Taylor (GB 2335260) discloses a device for occluding light generated by incandescent gases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Zerr whose telephone number is (703) 306-0153. The examiner can normally be reached on M-Th. 8:00am-5:30pm, F 8:00am-4:30pm, alt. F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703) 306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWZ  
2/4/03

*Charles T. Jordan*  
**CHARLES T. JORDAN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**